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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,733	05/19/2000	LEO MANS	30098.4	2996

30678 7590 10/01/2003

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EXAMINER

WACHTEL, ALEXIS A

ART UNIT PAPER NUMBER

1764

DATE MAILED: 10/01/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/554,733

Applicant(s)

MANS ET AL.

Examiner

Alexis Wachtel

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1764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-21 is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Detailed Action***

***Response to Amendment***

1. Applicant's amendment and accompanying Remarks filed 7-2-2003 have been entered and carefully considered.

The amendment is sufficient to overcome the anticipation and obviousness rejections of claims 1-5 and the 112 1<sup>st</sup> paragraph rejections of claims 1-16 by way of the instant amendment. However, an updated search yielded new prior art that provides a new basis of rejection as shown below. Applicant's arguments are rendered moot in view of the new grounds of rejection.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1-5 are rejected under 35 U.S.C. 102(e) as being anticipated by WO 97/42259 to Chevalier et al.

WO 97/42259 to Chevalier et al is directed to a method of manufacturing alveolate cellulosed products and teaches that a useful production process for manufacturing a sponge includes: dissolving cellulose in an intrinsic solvent for cellulose; incorporating an effective quantity of at least one pore-forming agent into the resulting mixture, with mixing; said pore-forming agent(s) which are compatible with the cellulose mixture, being capable of generating macro and micropores when it/they is/are actuated (pp.9, lines 10, lines 1-5). One of the steps includes microfibrillating the cellulosic raw material with water. This activation treatment facilitates the dissolution of the cellulose in the solvent (pp.16, lines 11-12, pp.17, lines 12-14). *Examiner note: said activating treatment introduces water into the cellulosic/solvent/pore-forming agent mixture.* Said solvent can be an amine oxide such as N-Methyl morpholine N-oxide (NMMO) (pp.12, line 9). With regards to claims 11 and 12, a suitable pore forming agent can be solid, in the form of particles which are actuated by fusion, sublimation or dissolution or chemical decomposition. (pp.20, lines 9-24). When carrying out the process of the invention, it may be desirable to incorporate pigments, bactericides, and plasticizers into the cellulosic mixture (pp.24, lines 23,24, pp.25, lines 1-24). A homogenous dough is produced which is a mixture of partially dissolved cellulose with solvents, and pore forming agents. Reinforcing fibers such as wood pulp, cotton linen ramie, sisal, hemp, jute, viscose, etc., may be added to the cellulosic raw material/solvent/pore-forming agent(s) dough (pp.23, lines 22-24, pp.24, lines 1-5). The dough can then be: poured or injected into a mold with or without compression; extruded through a die; deposited on a support such as a cloth or a scrim either by

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zigzag extrusion or by coating using rollers (pp.26, lines 19-24). The final step comprises a plurality of steps which cause or complete the cellulose precipitation and the dissolution of the pore forming agent. Said final step of process has to result in precipitation of a porous mass; the pores result from fusion, dissolution or chemical decomposition of the pore forming agents present. At the end of this step, the alveolar cellulosic material is produced (pp.30, lines 17-20). The resulting sponge has to be washed to eliminate all traces of chemical agents used in the process (pp.32, lines 22-24, pp.33, lines 1-2). It is also well established in the art that a sponge after initial production is then dried and plasticized before being cut and packaged.

***Allowable Subject Matter***

4. Claims 6-21 are allowable. The following is a statement of reasons for the indication of allowable subject matter: No prior art was found tot each or suggest that NMMO can be used to precipitate the cellulose.

***Prior Art***

5. The prior art of record and not relied upon is considered pertinent to Applicant's disclosure. In addition, the following references are cited for disclosing various aspects of Applicant's invention:

WO 97/422  
EP 0712889A2  
WO 95/11261  
DE 29618058 U1  
US 6,007,750  
US 4130683  
US 2179181  
US 4145532  
US 5626810

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**Conclusion**

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office Action. Accordingly, THIS ACTION IS MADE FINAL. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Alex Wachtel, whose number is (703)-306-0320. The Examiner can normally be reached Mondays-Fridays from 10:30am to 6:30pm.

If attempts to reach the Examiner by telephone are unsuccessful and the matter is urgent, the Examiner's supervisor, Mr. Glenn Caldarola can be reached at (703) 308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



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